

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THELMA SHIPPING CO. LTD.,

Plaintiff,

- against -

BEIJING SHOU-RONG FORWARDING SERVICE
CO. LTD. a/k/a BEIJING SHOURONG
FORWARDING SERVICE CO. LTD.,

Defendant.
-----X

:
: 08 Civ. 01804 (PAC)

:
: ECF CASE

:
: **DECLARATION OF JOHN HICKS**
: **IN SUPPORT OF PLAINTIFF'S**
: **OPPOSITION TO MOTION**
: **FOR COUNTERSECURITY**

I, John Hicks, declare under penalty of perjury of the laws of the United States of America as follows:-

1. I am a partner in the English law firm, Waterson Hicks.
2. I am instructed on behalf of the Plaintiff, Thelma Shipping Co. Ltd., in this matter and am authorized to make this declaration on their behalf in relation to the alleged claim now being brought by the Defendant, Beijing Shou-Rong Forwarding Service Co. Ltd. a/k/a Beijing Shourong Forwarding Service Co. Ltd., that Plaintiff breached the charter party and is liable to Defendant for the underperformance of the vessel.
3. The underlying dispute in this matter arises from Defendant's failure to pay hire in the amount of \$984,891.60 to Plaintiff in breach of the charter party executed between the parties on November 9, 2007 ("Charter Party").
4. Pursuant to the Charter Party, Plaintiff chartered the vessel "MANASOTA" ("Vessel") to the Defendant to perform a ballast voyage from the Far East to Itaguai, Brazil to load a cargo of bulk iron ore and then carry that cargo back to China.
5. As is typical in the shipping world, the Charter Party is evidenced by two documents: (1) the fixture "recap" agreed to by the parties; and (2) the unsigned pro forma charter party containing the "boiler plate" language of the charter, to be adjusted/ amended/ revised by the Fixture Recap
6. It is a well-settled principle of English law that the terms of a Fixture Recap prevail over the terms of the proforma charter party. See *Glyn v Margetson* (1893) AC 351 at p 358 - House of Lords; *The Brabant* (1965) 2LLR 552 at p 552-554; and *The Starsin* (2000) 1 LLR 85 at p 89-90.
7. Here, the Fixture Recap expressly provides "WHERE THE VESSEL REMAINS AT ANCHORAGE, IN PORT OR IDLE FOR AN EXTENDED PERIOD IN COMPLIANCE WITH CHRTRS' ORDER/INSTRUCTIONS, AND THIS CAUSES FOULING OF THE

HULL OR UNDERWATER PARTS, OWNERS SHALL NOT BE RESPONSIBLE FOR SUCH FOULING OR ANY VESSEL UNDERPERFORMANCE CAUSED BY SUCH FOULING. THE COST OF CLEANING AND PAINTING THE HULL OR UNDERWATER PARTS, AND THE TIME SPENT DOING SO, SHALL BE FOR THE CHARTERERS' ACCOUNT. *See Fixture Recap, p. 4 annexed to the Verified Complaint as Exhibit "1."*

8. This provision in the Fixture Recap repeats clause 102 of the proforma charter party, but in doing so deliberately excludes the definition of "extended period" which in the proforma is stated to mean 20 days.
9. Soon after the Plaintiff took redelivery of the Vessel from its prior charter, the Vessel took bunkers at Singapore on November 9-10, 2007, at which time the underwater areas of the Vessel were cleaned so that on sailing all underwater areas were free of growth.
10. The Vessel then ballasted across the Indian Ocean and South Atlantic to Brazil where she was obliged to wait in a warm water port, pursuant to the Defendant's instructions, for some 18 days in order to load the cargo.
11. The Defendant contends that the Vessel was delayed in a warm water port for 18 days which caused the fouling of the hull. It further admits that the fouling caused the alleged underperformance. *See Defendant's Memorandum of Law in Support of Motion for Countersecurity, p. 4.*
12. Thus, even a cursory application of the undisputed facts to the law (i.e. the contract), which states that Owners are not responsible for fouling or underperformance caused by fouling, reveals that Defendant does not have a prima facie valid claim against Plaintiff.
13. Defendant makes the outlandish argument that notwithstanding the clear language of the Charter Party that somehow Clause 102 is controlling.
14. This argument is unavailing. Under English law, like U.S. law, the language of a contract should be given its plain meaning.
15. Based on my examination of the facts and the relevant case law, under English law, Defendant's claim for underperformance would be precluded by the precise wording of the Charter Party.
16. Moreover, it is well-established under English law, that where bottom growth accumulates by reason of a vessel following charterers' orders and reduces the Vessel's performance that this shall not constitute a defect in the vessel entitling Charterers to make a deduction in hire. *See The Rijn [1981] 2 LLR 267 and the Pamphilios [2002] 2 LLR 681.*
17. Defendant's counterclaim hinges on clause 102 of the proforma charter party, which was expressly overridden by the Fixture Recap.

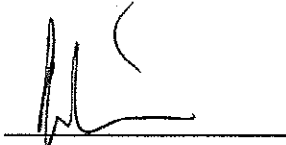
18. Therefore, as shown above, Defendant's counterclaim for underperformance has no basis under English law, and Defendant has failed to show that it has a prima facie valid maritime claim against the Plaintiff.
19. Defendant's argument under Clause 1, namely that Plaintiff failed to maintain the ship by allowing bottom growth to accumulate while the vessel was delayed at Itaguaí, also has no basis in law or fact.
20. Particularly, Plaintiff has no claim under Clause 1 because the Vessel was following Defendant's orders and instructions by waiting at a warm water port for an extended period of time and the accumulation of bottom growth in such circumstances is inevitable.
21. There are no practical steps to prevent the accumulation of growth that can be taken by Plaintiff/Owners in such circumstances.
22. The Defendant has not even indicated in what respect the Plaintiff failed to comply with this clause – the clause merely requires Plaintiff to take reasonable steps within a reasonable time to rectify any inefficiency. See *Snia v. Suzuki* [1924] 17 LLR 78.
23. Plaintiff took adequate steps to prevent the accumulation of marine growth. The vessel, being of relatively new construction, had anti-fouling paint applied to her underwater areas which was still well within warranty.
24. The accumulation of marine growth where a vessel is delayed, particularly in a warm water port, is not a matter dealt with by routine maintenance of the vessel.
25. To remove marine growth the vessel has to be stopped and taken out of service and cleaned.
26. In circumstances where the need for the cleaning arises as a direct result of the charterers' (Defendant's) orders, as was the case here, either the Vessel should not be placed off-hire in the first place or alternatively Plaintiff are entitled to an indemnity for the full extent of any loss arising. See *Island Archon* [1994] 2 LLR 227. According the clause 1 "argument" raised by Defendant has no merit whatsoever.
27. In my respectful opinion, the counterclaim device has simply been raised by Defendant in an attempt to cause inconvenience and delay to the Plaintiff, the claim and/or defense thereof being entirely spurious and without merit. Thus, the Court is respectfully requested to deny Defendant's Motion for Countersecurity.
28. Finally, the Defendant has still failed to serve a Defence Submission in the London Arbitration. Claim submissions were served by the Plaintiff on March 17, 2008 and the Tribunal ordered that the Defendant should serve a Defence by no later than April 17, 2008. The Tribunal has now issued a further Order against the Defendant that any Defence must be served by May 5, 2008. I submit that the Defendant's failure to serve a Defence to date reflects the frivolous nature of its Counterclaim (and Defence) in general.

29. In light of the foregoing, we submit that Plaintiff has not and cannot bring a valid counterclaim for underperformance under English law.
30. Defendant should not be allowed to subvert the purpose of Rule B attachment by concocting counterclaims in the hopes of gaining leverage over the Plaintiff.
31. The underperformance claim is simply frivolous on its face and has, in my opinion, no prospect of success in London arbitration or at all and should never have been ever intimated and should be withdrawn.
32. Furthermore, even presuming that the underperformance claim has any merit, which is denied, the calculations used therefore are incorrect. Defendant has failed to reasonably estimate its damages. Therefore, at the very least, if the Court does not deny the motion for countersecurity on the basis that Defendant has a frivolous claim, it should still refuse to order countersecurity because as a matter of quantum, Defendant has no remaining claim. Particularly, Defendant has arithmetically miscalculated its claim such that it is already fully secured (by way of deduction from hire). **See Exhibit "1."**
33. The distance steamed Itaguai/Singapore was 9,074 miles and Singapore/Majishan was 2,160 miles, a total of 11,234 miles. This is 241 miles more than Defendant's estimate.
34. Defendant has the WNI report recording the distances steamed. **See Exhibit "2."**
35. Therefore, even assuming *arguendo* that the Vessel would make a speed of 13.5 knots in all weather and current conditions (which is clearly not correct in any event) the steaming time allowed for 11,234 miles at 13.5 knots is 34.672839 days. The time actually used was 39.75 days.
36. Defendant also made an arithmetical error on the sailing time from Singapore – the vessel sailed at 1500 GMT, not 1400 GMT. Therefore the time lost, (assuming that the claim exists in the first place, which is denied) would be 5.077161 days, not 5.862655 days. Taking this into account, the deduction from hire, absent proper assessment of the Vessel's performance given bad weather, adverse currents, etc, should be \$888,503.17 gross or \$855,184.30 net of credit which should be made for 3.75% commission.
37. Defendant has already deducted \$1,025,964.63 from the hire owned to Plaintiff, an over-deduction of \$170,780.33.
38. Furthermore, although Defendant deducted the time spent maneuvering into and bunkering at Singapore in its calculation of the steaming time used, it has failed to take account of bunker consumption through this time. Defendant has the WNI calculations which record this amount to be 32.8 mt IFO (US \$16,498.40) and 12.3 mt MDO (US \$9,102.00). Based on these numbers, Defendant over-deducted another \$25,600.40.
39. Finally, Defendant's calculations are inherently unreasonable because they do not take account of the adverse weather conditions experienced during the voyage from Itaguai

to Singapore and Majishan. The WNI report sets out the many instances of weather exceeding Beaufort 4 and adverse current. All of Defendant's calculations are based on the concept that the Vessel experienced solely good weather and sea conditions throughout the entire voyage, a fact which is demonstrable false.

40. Defendant has no claim for underperformance (as discussed earlier). However, even if the claim did exist, which Plaintiff denies, using Defendant's own method of calculation, it has over-estimated its claim.

Executed on April 28, 2008 in London, England.



John Hicks

EXHIBIT "1"



SOLICITORS

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London EC3M 5LY

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FACSIMILE TRANSMISSION

DATE : 28 March 2008

PAGES : 2

TO : Winter Scott
ATTN : Glenn Winter
REF : GDW/ln/364/29
FAX : 020 7726 2371

FROM : John Hicks
REF : JWH/WB/1042-31

"MANASOTA" – C/P dated 9.11.07

Thank you for your fax of 20th March.

As you will appreciate your clients' calculations are incorrect.

1. As a starting point, the vessel's underwater areas were cleaned at Singapore on 9th/10th November 2007 before performing the ballast voyage to Brazil. That ballast voyage was then performed in excess of the Charterparty speed and with bunker consumption below the Charterparty warranty. It was only following the delay in loading at Itaguaí that the vessel's performance speed and consumption reduced below the Charterparty warranties. When the vessel arrived back at Singapore on the return laden voyage to bunker once more she was inspected underwater and found to be fouled. This was the obvious effect of the delay in loading at Itaguaí.

You have argued, as have your New York attorneys, that Clause 102 of the Charterparty provides that a delay at a loading port must exceed 20 days before Charterers become responsible for fouling. As we explained during the course of our telephone conversation of 19th March, you have omitted to take account of the recap which removes that 20 day minimum criteria and merely provides that where the vessel remains at anchorage for an extended period in compliance with Charterers' orders and this causes fouling Owners shall not be responsible for the fouling, underperformance or the cost of cleaning. It is trite law that the terms of the recap prevail over the terms of the pro forma Charterparty. The Singapore surveys place the cause of the fouling in such clear relief that there really should be no argument about this case and your clients should pay the sum wrongfully withheld without further delay. Any other approach on their part is frankly an abuse of process.

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J.W. Hicks, M.J. Wisdom, B.M. Isola, M.S. Aspinall, T.D. Baker, A.S. Ridings

Geneva: tel +4122 3109767
Address: 11 rue de Candolle, 1205 Geneva, Switzerland

Regulated by the Solicitors Regulation Authority

2. We have seen the assertion raised by your New York correspondents that Owners were in breach of Clause 1 of the Charterparty "by allowing underwater growth to accumulate". As you know, this is an entirely forlorn argument: there was nothing the Owners could have done to prevent the accumulation of underwater growth while following your clients' orders and waiting at Itaguai.
3. Without prejudice to this, the basis of your clients' calculations is incorrect both arithmetically and as a matter of principle. The distance steamed Itaguai/Singapore was 9,074 miles and Singapore/Majishan was 2,160 miles, a total of 11,234 miles. This 241 miles more than your clients' estimate. You have the WNI report recording the distances steamed. Even if we adopt the simplistic approach taken by your clients of assuming that the vessel will make a speed of 13.5 knots in all weather and current conditions (which is obviously not correct either) the steaming time allowed for 11,234 miles at 13.5 knots is 34.672839 days. Time actually used was 39.75 days: again your clients have made an arithmetical error on the sailing time from Singapore – the vessel sailed at 1500 GMT, not 1400 GMT. Therefore the time lost according to your clients' calculation should be 5.077161 days, not 5.862655 days. The deduction from hire should, absent proper assessment of the vessel's performance given bad weather, adverse currents etc., should thus be US\$888,503.17 gross or US\$855,184.30 net of the credit which should be made for 3.75% commission. Instead your clients have already deducted US\$1,025,964.63, an overdeduction of US\$170,780.33 which alone almost entirely extinguishes the purported counterclaim raised by your clients of US\$181,604.53.
4. Although your clients have deducted the time spent manoeuvring into and bunkering at Singapore from their calculation of the steaming time used, they have omitted to take account of bunker consumption through this time. You have the WNI calculations which record that this amounted to 32.8 mt IFO (US\$16,498.40) and 12.3 mt MDO (US\$9,102.00). Again adopting this very simplistic approach your clients have overdeducted US\$25,600.40. Taking this together with the overdeduction of time taken explained above, your clients have already overdeducted US\$196,380.73, more than the total amount of their counterclaim of US\$181,604.53.
5. One then has to take account of the adverse weather conditions experienced during the voyage from Itaguai to Singapore and Majishan. The WNI report sets out the many instances of weather exceeding Beaufort 4 and adverse current. In spite of this your clients' calculations presumed the vessel experienced good weather and sea conditions throughout the entire duration of the voyage.

In conclusion therefore even before taking into account the weather and current conditions, your clients do not have a counterclaim on any basis. They have deducted from hire more than the maximum amount of any possible counterclaim even if they had no liability for the fouling of the vessel's underwater areas, which is obviously denied. Your clients cannot therefore be entitled to further countersecurity since they will be doubly secured in respect of the same claims.

We trust this is clear and that you will advise your New York attorneys accordingly.

Finally we confirmed to you that our clients would accept a bank guarantee from a first class London bank rather than leaving your clients' funds subject to attachment in New York. You have not responded to us upon this.

Yours faithfully,

Waterson Hicks

✓
WATERSON HICKS

EXHIBIT "2"



WEATHERNEWS INC.

Global Center

Email: info-voyager@wni.com

Voyage Evaluation Report

Vessel Name: **MANASOTA (9HDF8)**

WNI Route Number: 2007111233

Date: December 6, 2007

Prepared for **CARDIFF MARINE INC**DEPARTURE: SINGAPORE
ARRIVAL: ITAGUAINovember 10, 2007 01:30 (GMT)
December 5, 2007 15:30 (GMT)Voyage No: —
Voyage Type: Chartered
Cargo On deck:
Holds:Ship Type: BULK CARRIER
Loading Condition: Ballast

SERVICE TYPE

- ☒ Oceanrouting with or without Onboard Routing System
☐ Performance Monitoring
☐ Heavy Weather Advisory

SERVICE WITH

- ☒ Performance Speed Evaluation
☒ Speed & Bunker Analysis
☐ Route Comparison Analysis

VOYAGE SUMMARY :

Route selection	The vessel sailed along the recommended route.
Schedule	Required ETA scheduled before departure : N/A Actual Time of Arrival : December 5, 2007 15:30 (GMT)

Voyage Leg	Speed Performance	Bunker Performance
SINGAPORE to ITAGUAI	Performed (No Time Lost)	156.64 MT F.O. Under-consumed 1.86 MT D.O. Under-consumed

ROUTE COMPARISON ANALYSIS :

No comparison is provided.

Your Local Contact Office
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 Email: vp_ita@wni.com



Performance Speed Evaluation

Vessel Name: **MANASOTA**
Prepared for **CARDIFF MARINE INC**

WNH Route Number: 2007111233
Date: December 6, 2007

DEPARTURE: SINGAPORE
ARRIVAL: ITAGUAI

November 10, 2007 01:30 (GMT)
December 5, 2007 15:30 (GMT)

SINGAPORE to ITAGUAI

	Entire Voyage Analysis
Distance Sailed	8999 Miles
Time en Route	614.0 Hours
Average Speed	14.7 Knot(s)
Weather Factor	-0.5 Knot(s)
Current Factor	0.0 Knot(s)
Performance Speed	15.2 Knot(s)
Charter Party Speed	15.0 Knot(s)

Good Weather Definition:

Wind Force Beaufort Force 4 and seas Douglas Sea State 3 (1.25m max wave height) or less for over half the day, and non-adverse average daily current.

Remarks:

Weathernews began providing ship routing service on November 13.

Route Selection:

The vessel sailed along the recommended route.



Speed and Bunker Analysis for Chartered Vessel

This calculation is based on the information obtained from the Master/Vessel operator applying allowed time for consumption calculations. It will be updated upon receipt of corrections of Charter Party information or additional data of ship positions, departure/arrival information.

Vessel Name: **MANASOTA**

WNI Route Number: 2007111233

Date: December 6, 2007

SINGAPORE to ITAGUAI

Performance Speed Evaluation

Distance Sailed : 8999 Miles
 Time en Route : 614.0 Hours
 Average Speed : 14.7 Knot(s)
 Weather Factor : -0.5 Knot(s)
 Current Factor : 0.0 Knot(s)
 Performance Speed : 15.2 Knot(s)

Voyage Leg	Departure BROB		Arrival BROB		Bunker Consumed on Passage	
	F.O. [MT]	D.O. [MT]	F.O. [MT]	D.O. [MT]	F.O. [MT]	D.O. [MT]
SINGAPORE to ITAGUAI	3858.70	193.00	2129.60	180.40	1529.10	12.60

Charter Party Terms:

It is understood that the Charter Party Speed is about 15.0 knots on 59.94 M/T fuel oil and 0.51 M/T diesel oil per sailing day. Allowing 0.5 knots and 5% consumption for the term 'about', an effective speed of 14.5 knots, 62.94 M/T fuel oil and 0.54 M/T diesel oil have been used in the following calculations.

1. SPEED CALCULATIONS

C/P Speed (+0.5 Knots) : 14.5 Knot(s)
 Weather Factor : -0.5 Knot(s)
 Current Factor : 0.0 Knot(s)

C/P Allowed Speed : 14.0 Knot(s)

Time Allowed : 8999 / 14.0 = 642.8 Hours
 Time Lost : 614.0 - 642.8 = -28.8 Hours

No Time Lost

2. CONSUMPTION CALCULATIONS

FUEL OIL [MT]

Warranted Consumption (5% upward) : 62.94
 Calculated Consumption : (642.8 / 24 Hours) x 62.94 = 1685.74
 Bunker Consumed on Passage : 1529.10
 Under-consumed : 1529.10 - 1685.74 = -156.64

DIESEL OIL [MT]

Warranted Consumption (5% upward) : 0.54
 Calculated Consumption : (642.8 / 24 Hours) x 0.54 = 14.46
 Bunker Consumed on Passage : 12.60
 Under-consumed : 12.60 - 14.46 = -1.86

Fuel Oil Under-consumed	156.64	MT
Diesel Oil Under-consumed	1.86	MT

Voyage Summary Report

WNI Route Number: 2007111233

Date: December 6, 2007

MANASOTA Operator: CARDIFF MARINE INC

Departure: SINGAPORE 1.2N 103.9E November 10, 2007 01:30 (GMT)
 Arrival: ITAGUAI 23.2S 43.9W December 5, 2007 15:30 (GMT)
 Distance: 8999 miles Time Enroute 614.0 hours Average Speed: 14.7 knots

OATE	REPORTED POSITIONS			1200 GMT DR		DAILY		1200 GMT WEATHER				REPORTED VESSEL DATA			AVERAGE			
	DAILY POSITIONS							SURFACE WIND		COMBINED WAVES		ENGINE		ROS		DAILY CONS.		
	LAT	LOE	GMT	LAT	LOE	DISTANCE (NM)	SPEED (KTS)	DIR	SPEED (KTS)	BEAUFORT	FORCE	DIR	HEIGHT (M)	RPM	F.D. (M/T)	M.O.D. (M/T)	P.O. (M/T)	M.D.O. (M/T)
11/10	1.2N	103.9E	1:30												3658.70	193.00		
11/10	1.2N	103.4E	4:00	2.24N	101.67E	186.0	14.2	W	2	1		NR	0.1	85.2	3652.44	192.90	60.1	1.0
11/11	4.8N	94.8E	4:00	5.96N	97.04E	360.5	15.0	S	7	3		WSW	0.8	85.2	3591.00	192.40	59.4	0.5
11/12	4.5N	93.1E	5:00	4.11N	91.74E	348.7	13.2	WSW	14	4		SSW	2.1	85.2	3531.00	191.90	59.5	0.5
11/13	1.6N	88.8E	5:00	6.54N	87.64E	323.4	13.7	WSW	19	5		SSW	2.5	85.2	3471.00	191.40	60.0	0.5
11/14	1.5N	84.7E	5:00	2.39S	83.42E	309.7	12.9	W	15	4		SSW	2.2	85.2	3411.00	190.90	60.0	0.5
11/15	4.9S	80.4E	5:00	5.95S	79.06E	339.1	14.1	W	11	4		SSW	2.2	85.2	3348.50	190.40	60.0	0.5
11/16	9.2S	76.4E	6:00	8.98S	74.10E	363.2	14.7	SSW	14	4		SSW	2.5	85.2	3285.00	189.90	63.5	0.5
11/17	11.9S	70.4E	7:00	12.64S	69.36E	360.1	13.0	SSW	16	4		SSW	2.4	85.2	3223.00	189.40	59.5	0.5
11/18	15.3S	65.5E	7:00	16.08S	64.47E	351.9	14.7	SSW	13	4		SSW	3.2	85.2	3161.30	188.90	59.7	0.5
11/19	19.1S	60.2E	8:00	18.65S	59.38E	341.8	15.1	SSW	32	4		SSW	2.7	85.2	3101.30	188.40	59.5	0.5
11/20	23.4S	55.1E	8:00	22.06S	54.19E	349.5	14.6	E	32	4		SSW	2.6	85.2	3041.00	187.90	59.5	0.5
11/21	25.0S	49.3E	8:00	25.39S	48.35E	350.9	14.3	NR	19	5		SSW	3.2	85.2	2982.30	187.40	59.5	0.5
11/22	27.0S	43.1E	9:00	28.06S	42.37E	360.7	15.0	NE	5	2		SN	2.5	85.2	2928.10	186.90	59.5	0.5
11/23	30.3S	37.1E	9:00	30.70S	36.41E	361.0	14.6	NNW	20	3		SN	1.9	85.2	2860.00	186.40	59.7	0.5
11/24	32.6S	31.0E	10:00	33.08S	30.52E	336.8	14.0	SSW	22	6		SSW	2.5	85.2	2798.50	185.90	59.5	0.5
11/25	35.0S	24.4E	10:00	35.23S	23.06E	337.6	14.9	ENE	18	5		SN	2.5	85.2	2738.40	185.40	59.7	0.5
11/26	35.7S	17.2E	11:00	35.78S	16.89E	347.4	14.3	E	20	5		SN	3.4	85.2	2676.80	184.90	59.5	0.5
11/27	35.9S	10.5E	11:00	35.95S	10.14E	337.0	14.0	S	10	3		SSW	3.4	85.2	2617.10	184.40	59.7	0.5
11/28	35.7S	3.5E	11:00	35.71S	3.21E	347.9	14.5	SSW	11	4		SSW	2.0	85.2	2557.50	183.90	59.7	0.5
11/29	35.1S	4.0W	12:00	35.15S	4.10W	355.1	14.0	NNW	5	2		SN	1.1	85.2	2495.50	183.40	59.5	0.5
11/30	34.3S	11.2W	12:00	34.07S	11.17W	364.6	15.2	NE	7	3		SN	1.4	85.2	2435.80	182.90	59.7	0.5
12/1	32.6S	18.0W	12:00	32.65S	18.00W	361.6	15.1	W	13	4		NR	1.7	85.2	2376.30	182.40	59.5	0.5
12/2	30.8S	25.0W	13:00	30.83S	24.73W	361.3	15.1	NNW	18	5		SSW	1.9	85.2	2314.30	181.90	59.5	0.5
12/3	28.7S	31.0W	13:00	28.83S	30.70W	341.3	14.2	NNW	13	4		SSW	1.4	85.2	2254.00	181.40	59.5	0.5

Voyage Summary Report

WNI Route Number: 2007111233
Date: December 9, 2007



REPORTED POSITIONS				1200 GMT DR				DAILY				1200 GMT WEATHER				REPORTED VESSEL DATA				AVERAGE			
DATE	LAT	LONG	GMT	LAT	LONG	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY	DAILY
12/4	25.25	37.4N	14:00	25.38S	36.89W	357.6	14.9	SSS	3	2	1	1.2	85.2	2192.80	180.90	59.3	0.5						
12/5	23.48	43.5N	14:00	23.62N	33.04W	374.3	15.4	MB	3	1	3	1.0	85.2	2133.30	180.40	59.3	0.0						
12/5	23.28	43.9W	15:30			56.0	15.7								2129.60	180.40	59.3	0.0					

VENUE INSURANCE ESTABLISHMENT, SINGAPORE
Date: December 6, 2007

MANASOTA

From: SINGAPORE

To: ITAGUAI

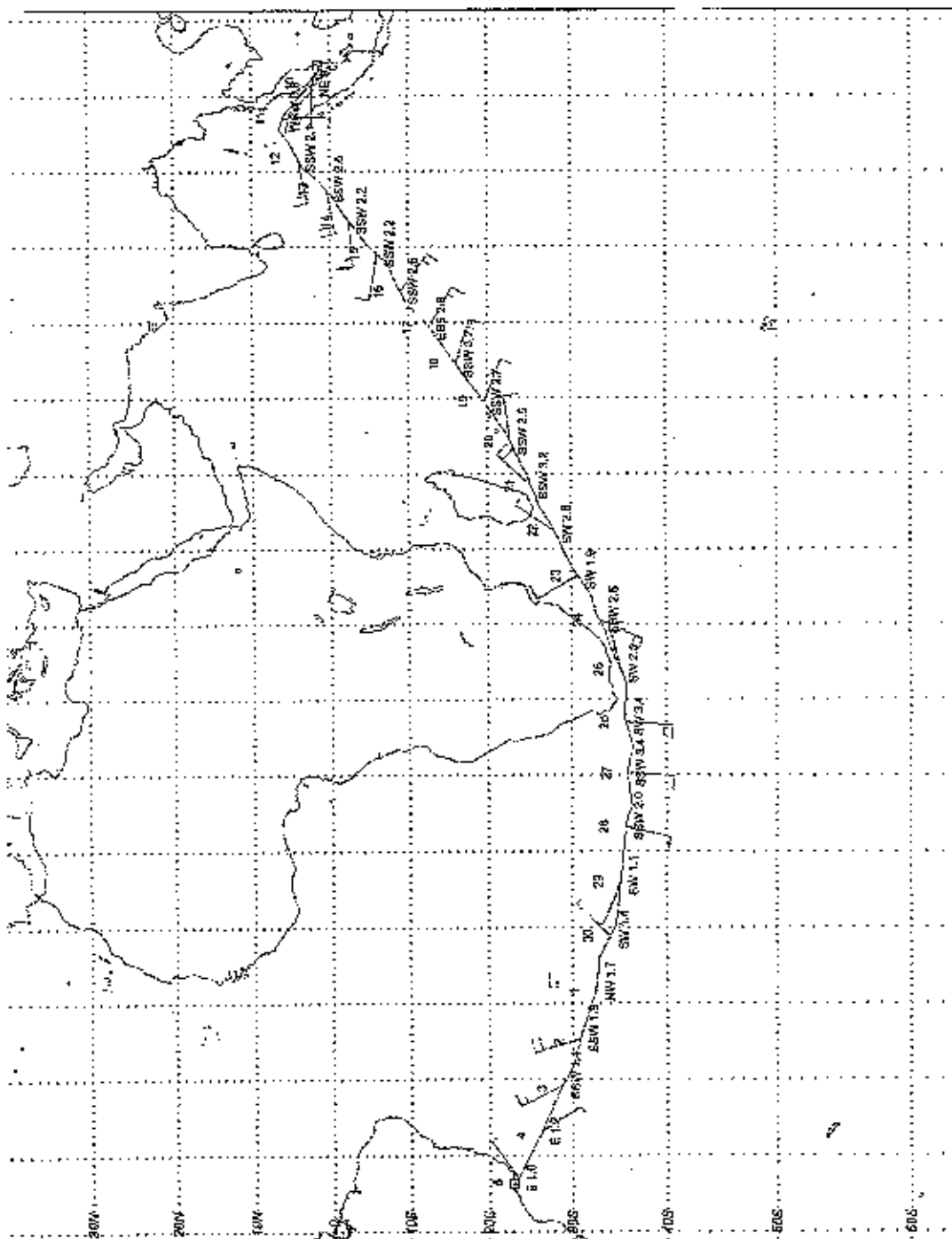
CARDIFF MARINE INC

Number of Days of Wind (Beaufort Force)

	0	1	2	3	4	5	6	7	8	9	>9	Total
Head	0.25	0.25	0.25		1.25	0.50						2.50
Bow		0.25	0.25	0.25	1.75	1.75	0.25					4.50
Beam			0.25	2.25	3.75	1.00	0.25					7.50
Quarter		0.50	1.25	2.00	4.50	0.75						9.00
Follow			0.50	0.25	0.50	0.75						2.00
Total	0.25	1.00	2.50	4.75	11.75	4.75	0.50					25.50

Number of Days of Combined Wave Height (Meters)

	<1	1	2	3	4	5	6	7	8	9	>9	Total
Head			1.75	1.50								3.25
Bow	1.00	1.75	7.25	6.25								16.25
Beam	0.25	1.50	2.00	0.50								4.25
Quarter		1.50		0.25								1.75
Follow												
Total	1.25	4.75	11.00	8.50								25.50




Route	Distance	Time	Speed	Departure Time	Arrival Time
Route	Distance	Time	Speed	Departure Time	Arrival Time
Actual	6949 NM	814.6 Hours	14.7 KNOTS	11/02/2007 01:30 (GMT)	12/02/2007 16:30 (GMT)

FFRANK	1.2N	103.0E	SINGAPORE
CO	23.26	43.0W	ITAGUAI

MANASOTA

WJVI Radio Number: 200711233

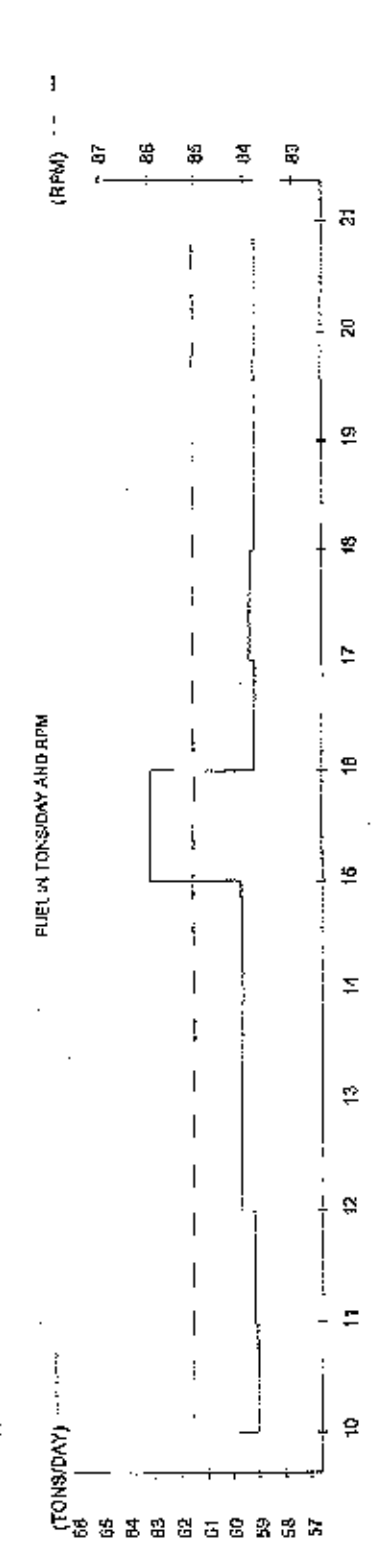
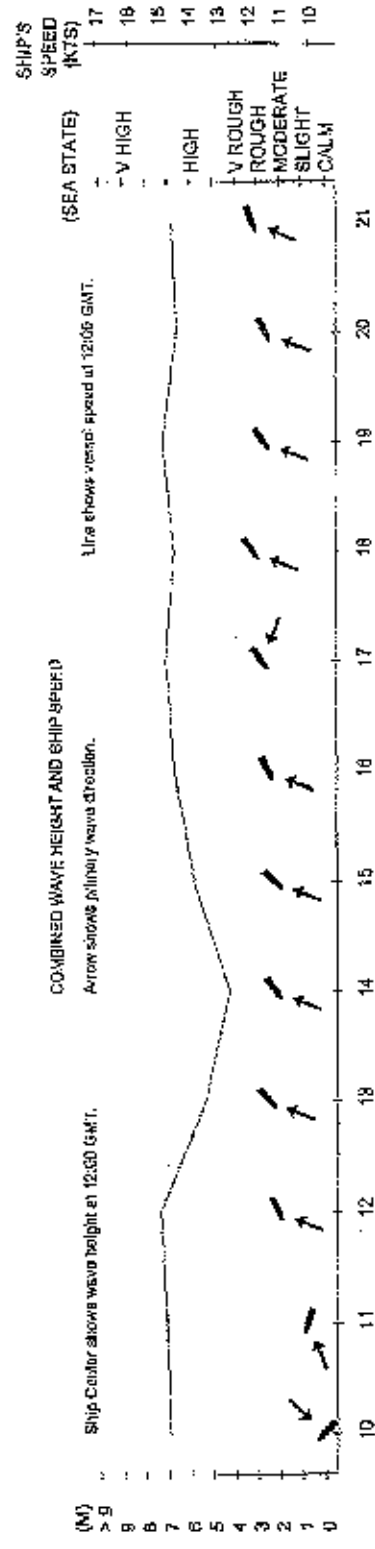
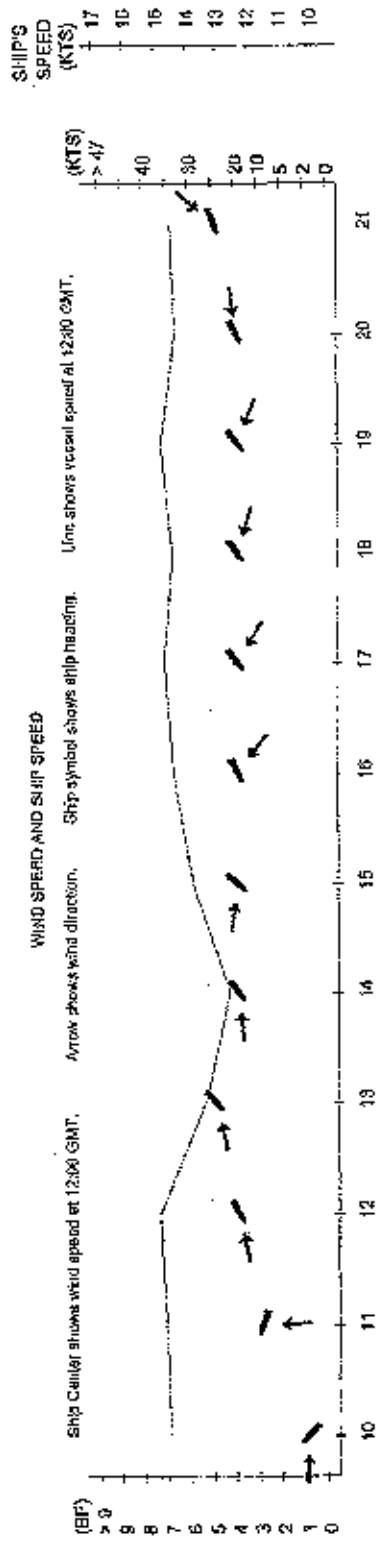
LEGEND:
 WIND from NE(1045)
 Escal. balb = 10 h/s
 1/2 h b b = 5 h/s
 W 5
 B = DAY OF THE MONTH
 W 5 = PRIMARY WAVE from WEST.
 5 METERS

Vessel Performance Profile

WNI Route Number: 200/111233
Date: December 6, 2007

MANASOTA

2007 12/06/2007

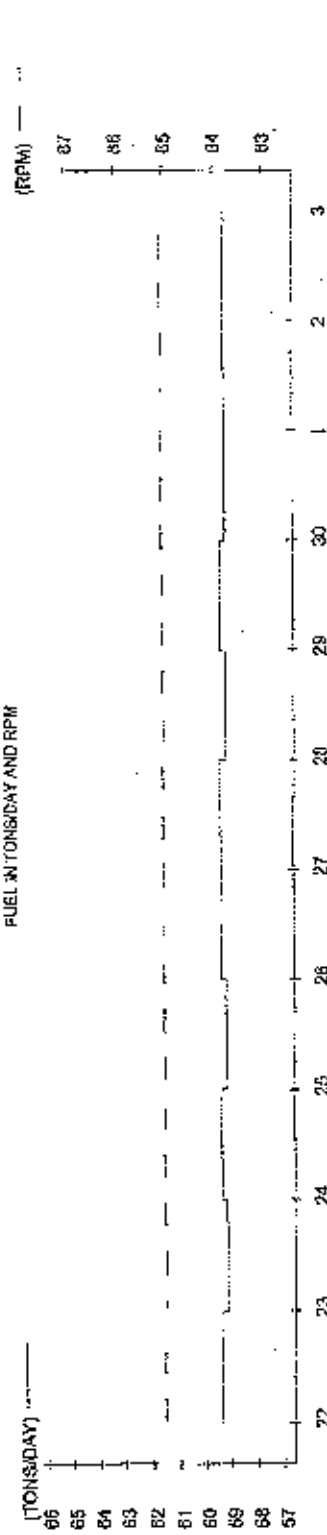
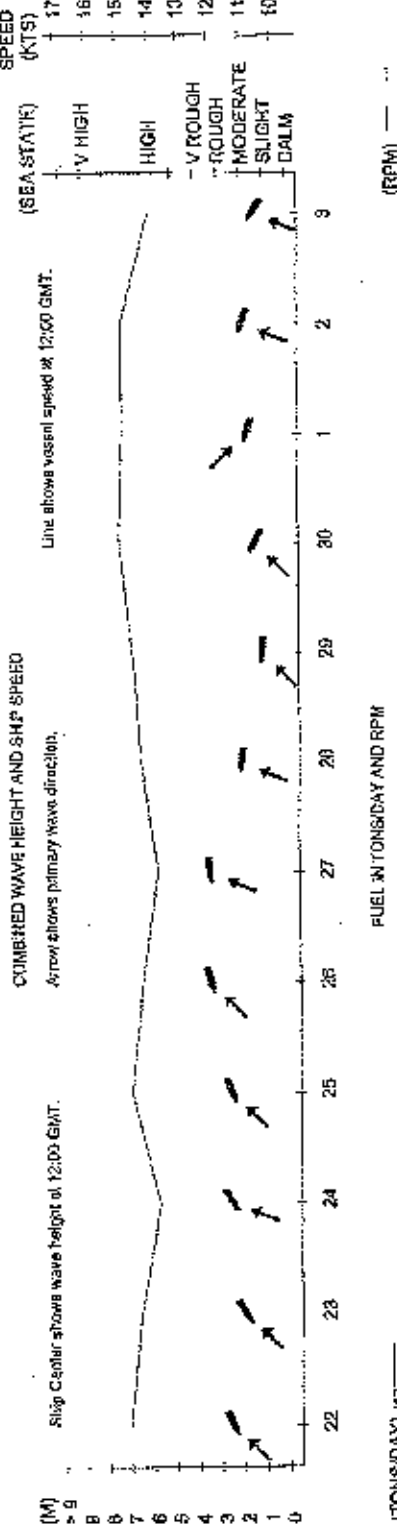
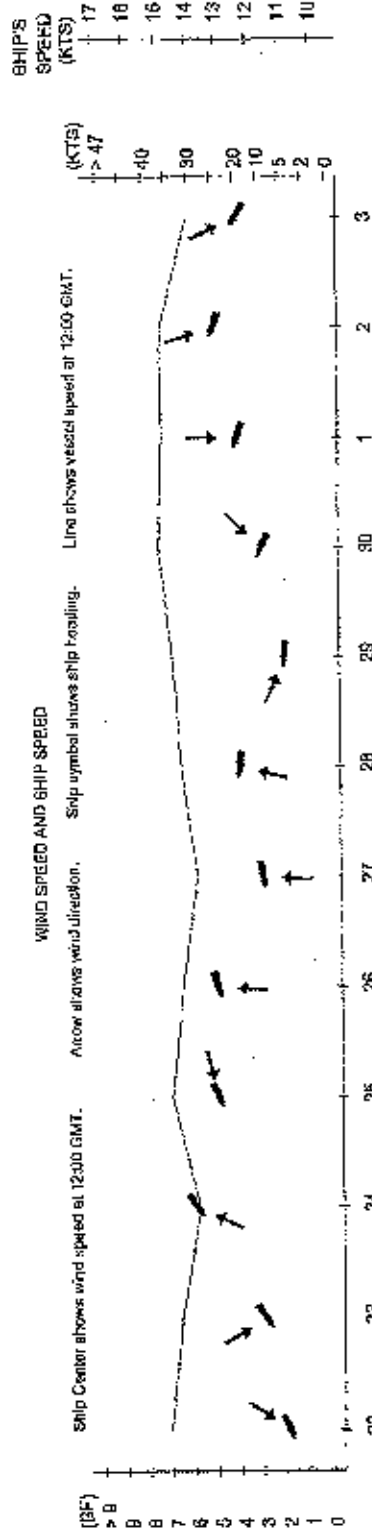
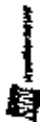


Vessel Performance Profile (Page 2)

WNI Route Number: 2007111233

Date: December 6, 2007

MANASOTA

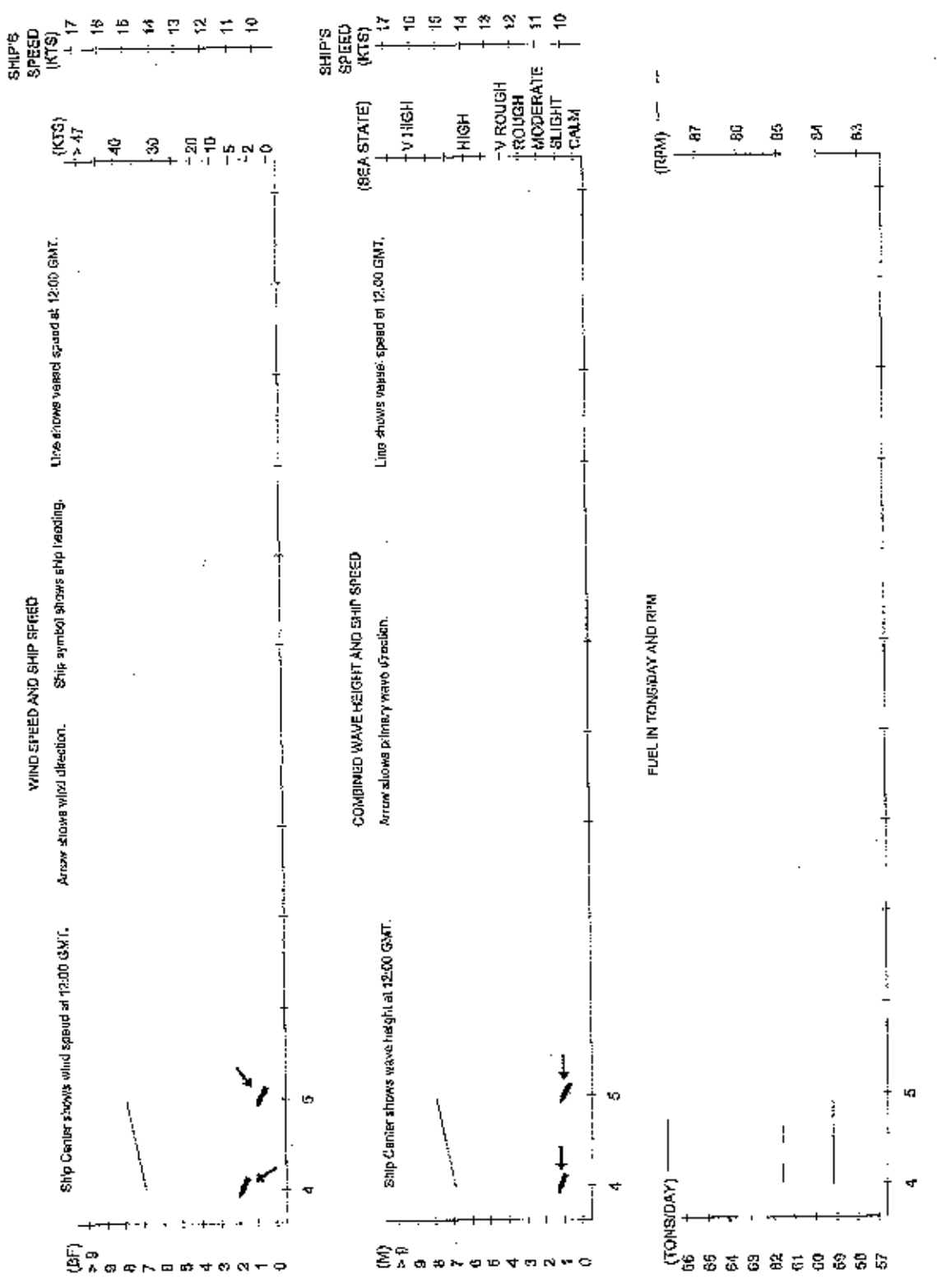


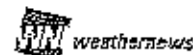
Vessel Performance Profile (Page 3)

WNI Route Number: 2007111232
Date: December 5, 2007

MANASOTA

2007





WEATHERNEWS INC.
Global Center
Email: itnp-voyage-report@wni.com

Voyage Evaluation Report

Vessel Name: **MANASOTA (9HDF8)**
Prepared for: **CARDIFF MARINE INC**

WNI Route Number: 2007122212
Date: February 18, 2008

DEPARTURE: ITAGUAI
ARRIVAL: BEILUN

December 23, 2007 14:00 (GMT)
February 2, 2008 03:00 (GMT)

Voyage No: -
Voyage Type: Chartered
Cargo: On deck: nil

Ship Type: BULK CARRIER
Loading Condition: Loaded

Hold: 159700 MT ABT IRON ORE IN BULK

SERVICE TYPE

- ☒ Ocean routing with or without Onboard Routing System
☐ Performance Monitoring
☐ Heavy Weather Advisory

SERVICE WITH

- ☒ Performance Speed Evaluation
☒ Speed & Sinker Analysis
☐ Route Comparison Analysis

VOYAGE SUMMARY :

Route selection	The vessel sailed along the recommended route.	
Schedule	Required ETA scheduled before departure :	N/A
	Actual Time of Arrival :	February 2, 2008 03:00 (GMT)
Voyage Leg	Speed Performance	Sinker Performance
ITAGUAI to BEILUN	Underperformed (74.9 Hours Lost)	120.64 MT F.O. Over-consumed 0.38 MT D.O. Over-consumed

ROUTE COMPARISON ANALYSIS :

No comparison is provided.

Your Local Contact Office
Weathernews Italia S.p.A.
Via Postrada, 6, 20121 Milano, Italy
Tel: +39-02-76-01-82-75
Fax: +39-02-76-92-8021
Email: wp_it@wni.com



Performance Speed Evaluation

(1 of 2)

Vessel Name: **MANASOTA**
Prepared for: **CARDIFF MARINE INC**

WNI Route Number: 2007122212
Date: February 18, 2008

DEPARTURE: ITAGUAI
ARRIVAL: BEILUN

December 23, 2007 14:00 (GMT)
February 2, 2008 03:00 (GMT)

ITAGUAI to BEILUN

	Good Weather Analysis	Entire Voyage Analysis
Distance Sailed	594 Miles	11134 Miles
Time en Route	48.0 Hours	938.0 Hours
Average Speed	12.4 Knot(s)	11.8 Knot(s)
Weather Factor	0.0 Knot(s)	-0.5 Knot(s)
Current Factor	0.2 Knot(s)	-0.1 Knot(s)
Performance Speed	12.2 Knot(s)	12.5 Knot(s)
Charter Party Speed		14.0 Knot(s)

Good Weather Definition:

Wind force Beaufort Force 4 and seas Douglas Sea State 3 (1.25m max wave height) or less for over half the day, and non-adverse average daily current.

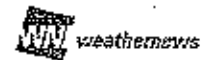
Remarks:

Good Weather Analysis

A good weather day is defined by Weathernews as being the period between consecutive daily noon positions where the analyzed weather conditions experienced by the vessel did not exceed the above mentioned good weather definitions.

The following days were analyzed and determined in excess of good weather definitions:

December 24 to January 16, 18 to 20, 22 to 24, January 26 to February 2



Performance Speed Evaluation

(2 of 2)

Vessel Name: **MANASOTA**

WMI Route Number: 2007122212

Prepared for: **CARDIFF MARINE INC**

Date: February 18, 2008

Notes:

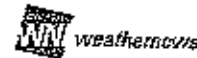
The following time and distance has been excluded from the Performance Speed Evaluation due to transit through Singapore strait:

Date/Time	Duration	Distance
01/24/08 0400Z-01/24/08 2000Z	16.0 Hours	100 Miles

The quantity of bunkers consumed on passage excludes 32.80 MT of fuel oil and 12.30 MT of diesel oil that was consumed during the period of exclusion.

Route Selection:

The vessel sailed along the recommended route.



Speed and Bunker Analysis for Chartered Vessel

(1 of 2)

This calculation is based on the information obtained from the Master/Vessel operator applying allowed time for consumption calculations. It will be updated upon receipt of corrections of Charter Party information or additional data of ship positions, departure/arrival information.

Vessel Name: **MANASOTA**

WVI Route Number: 2007122212

Date: February 16, 2008

ITAGUAI to BEILUN

Performance Speed Evaluation [All Weather]

Distance Sailed : 1113.4 Miles
 Time en Route : 938.0 Hours
 Average Speed : 11.9 Knot(s)
 Weather Factor : -0.5 Knot(s)
 Current Factor : -0.1 Knot(s)
 Performance Speed : 12.5 Knot(s)

Voyage Leg	Departure BROB		Arrival BROB		Bunker Consumed on Passage	
	F.O. (MT)	D.O. (MT)	F.O. (MT)	D.O. (MT)	F.O. (MT)	D.O. (MT)
ITAGUAI to SINGAPORE	2013.70	171.80	22.60	143.50	1891.10	29.30
SINGAPORE to BEILUN	2518.00	191.20	2053.70	187.40	464.30	3.80

Notes: The following time and distance has been excluded from the Performance Speed Evaluation due to transit through Singapore strait:

Date/Time : 01/24/06 0400Z-01/24/08 2000Z
 Duration : 16.0 Hours
 Distance : 100 Miles

The quantity of bunkers consumed on passage excludes 32.80 MT of fuel oil and 12.30 MT of diesel oil that was consumed during the period of exclusion.

Charter Party Terms:

It is understood that the Charter Party Speed is about 14.0 knots on 60.96 M/T fuel oil and 8.51 M/T diesel oil per sailing day. Allowing 0.5 knots and 5% consumption for the term 'about', an effective speed of 13.5 knots, 64.01 M/T fuel oil and 0.54 M/T diesel oil have been used in the following calculations.

1. SPEED CALCULATIONS

C/P Speed (-0.5 Knots) : 13.5 Knot(s)
 Weather Factor : -0.5 Knot(s)
 Current Factor : -0.1 Knot(s)

C/P Allowed Speed	12.9 Knot(s)		
Time Allowed	1113.4 / 12.9	=	863.1 Hours
Time Lost	938.0 - 863.1	=	74.9 Hours
74.9 Hours Lost			



Speed and Bunker Analysis for Chartered Vessel

(2 of 2)

This calculation is based on the information obtained from the Master/Vessel operator applying allowed time for consumption calculations. It will be updated upon receipt of corrections of Charter Party information or additional data of ship positions, departure/arrival information.

Vessel Name: **MANASOTA**

WNI Route Number: 2007122212

Date: February 18, 2008

2. CONSUMPTION CALCULATIONS

FUEL OIL [MT]

Warranted Consumption (5% upward) :	64.01	
Calculated Consumption :	(883.1 / 24 Hours) x 64.01	= 2301.96
Bunker Consumed on Passage :	2422.60	
Over-consumed :	2422.60 - 2301.96	= 120.64

DIESEL OIL [MT]

Warranted Consumption (5% upward) :	0.54	
Calculated Consumption :	(863.1 / 24 Hours) x 0.54	= 19.42
Bunker Consumed on Passage :	19.80	
Over-consumed :	19.80 - 19.42	= 0.38

Fuel Oil Over-consumed	120.64	MT
Diesel Oil Over-consumed	0.38	MT

Voyage Summary Report

WNI Route Number: 2007122212

Date: February 10, 2008

MARASOTA Operator: CARDIFF MARINE INC

Departure: ITAGUAI 23.2S 44.0W December 23, 2007 14:00 (GMT)

Arrival: SINGAPORE 1.2N 103.9E January 24, 2008 20:00 (GMT)

Distance: 9074 miles Time Enroute 774.0 hours Average Speed: 11.7 knots

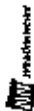


DATE	REPORTED NOON POSITIONS			DAILY		ANALYZED WEATHER				REPORTED VESSEL DATA			AVERAGE		
	LAT	LONG	GMT	DISTANCE (NM)	SPEED (KTS)	DIR	SURFACE WIND (KTS)	BEAUFORT	PRIMARY	HEIGHT (M)	ENGINE RPM	F.O. (MT)	M.D.O. (MT)	F.O. (MT)	M.D.O. (MT)
12/23	23.17S	02.00N	14:00									2013.70	171.80		
12/24	25.50S	30.80W	14:00	315.1	11.1	NNE	16	4	JRK	1.5	85.2	1852.70	171.30	61.4	0.5
12/25	27.00S	33.40W	14:00	321.4	23.4	ESE	10	3	ESW	1.6	85.2	1891.40	170.80	60.4	0.5
12/26	28.40S	28.00W	13:00	309.9	23.9	E	11	4	ESW	2.2	85.2	1833.50	170.30	60.9	0.5
12/27	33.20S	21.80W	11:00	335.7	10.0	NNE	4	2	ESW	1.2	85.2	1772.40	169.80	60.9	0.5
12/28	33.50S	26.30W	12:00	253.1	13.0	NNE	29	5	ESW	2.4	85.2	1714.20	169.30	60.9	0.5
12/29	33.60S	30.40W	12:00	301.0	12.5	E	12	4	ESW	3.9	85.2	1653.30	168.80	60.9	0.5
12/30	34.60S	4.00W	12:00	304.2	12.7	E	16	4	SW	4.0	85.2	1594.40	168.30	60.9	0.5
12/31	34.80S	1.50E	11:00	291.0	13.7	SSW	9	3	SW	3.5	85.2	1534.00	167.80	60.9	0.5
1/1	35.10S	7.70E	11:00	321.4	13.0	SSE	4	2	SW	2.7	85.2	1473.10	167.30	60.9	0.5
1/2	35.30S	14.10E	11:00	313.4	13.0	S	16	4	SW	2.3	85.2	1412.20	166.80	60.9	0.5
1/3	35.30S	16.00E	10:00	232.2	10.1	SE	24	5	SW	2.3	85.2	1353.30	166.30	62.5	0.5
1/4	35.40S	23.30E	10:00	331.7	9.1	E	21	5	SW	2.7	85.2	1293.00	165.80	62.5	0.5
1/5	35.70S	27.80E	10:00	220.0	9.3	ESE	27	6	SW	2.0	85.2	1237.10	165.30	62.5	0.5
1/6	34.50S	31.60E	9:00	178.3	7.7	NNE	31	7	SW	2.6	85.2	1167.00	164.80	62.5	0.5
1/7	32.70S	34.42E	9:00	216.6	9.0	NE	13	4	SW	1.9	85.2	1104.90	164.30	62.5	0.5
1/8	30.30S	35.00E	9:00	275.7	11.5	SE	14	4	SW	2.1	85.2	1042.80	163.80	62.5	0.5
1/9	27.70S	43.60E	8:00	360.8	22.6	S	18	5	SW	1.4	85.2	982.50	163.30	62.5	0.5
1/10	25.60S	48.00E	8:00	389.0	12.1	E	14	4	SW	1.4	85.2	920.00	162.80	62.5	0.5
1/11	21.70S	51.70E	8:00	360.7	12.0	E	10	5	SW	1.2	85.2	859.90	162.30	62.5	0.5
1/12	18.80S	53.20E	7:00	277.3	12.1	ESE	13	4	SW	1.4	85.2	797.00	161.80	62.5	0.5
1/13	15.30S	60.70E	7:00	290.7	12.1	ESE	13	4	SW	1.7	85.2	739.10	161.30	62.5	0.5
1/14	12.00S	62.30E	7:00	269.3	13.0	E	6	2	SW	1.3	85.2	672.80	160.80	62.5	0.5
1/15	8.70E	65.90E	7:00	269.4	12.1	ESE	5	2	SW	1.1	85.2	610.10	160.30	62.5	0.5
1/16	5.50E	69.30E	6:00	275.3	12.0	ESE	7	3	SW	0.9	85.2	550.20	159.80	62.5	0.5

Voyage Summary Report

WNI Route Number: 200712212

Date: February 18, 2008



REPORTED NOON POSITIONS				DAILY				ANALYZED WEATHER				REPORTED VESSEL DATA				AVERAGE	
DATE	LAT	LOX	GMT	DISTANCE (NM)	SPEED (KTS)	DIR	SURF WIND SPEED (KTS)	DEWFOOT FORCE	PRIMARY DIR	COMBINED WAVES HEIGHT (M)	ENGINE RPM	ROB F.D.	M.D.O.	(MT)	F.O.	M.D.O.	(MT)
1/17	1.308	73.808	0:00	307.9	11.8	RUC	11	4	SEW	0.0	85.2	487.70	179.34	62.5	0.5		
1/18	1.308	78.308	6:00	297.1	12.4	PNE	11	4	RUE	1.0	85.2	425.20	128.89	62.5	0.5		
1/19	0.608	82.428	5:00	274.3	11.9	NE	11	4	SEW	0.9	85.2	345.30	150.30	62.5	0.5		
1/20	3.608	85.008	5:00	286.9	12.0	NEW	5	2	SEW	0.7	85.2	302.60	157.80	62.5	0.5		
1/21	4.508	91.108	5:00	286.1	11.9	NSE	15	4	S	0.3	85.2	245.20	137.10	62.5	0.5		
1/22	6.208	94.508	5:00	287.5	12.0	ENE	15	4	SEW	0.8	85.2	379.80	156.00	62.5	0.5		
1/23	4.608	89.208	4:00	250.7	10.9	E	5	2	CAW	0.0	85.2	117.70	156.36	62.5	0.5		
1/24	3.808	102.408	4:00	248.6	10.9	E	5	1	CAW	0.0	85.2	55.00	156.80	62.5	0.5		
1/25	1.308	103.308	20:00	90.2	5.1							22.00	143.50	49.2	10.5		



WMT Route Number: 2007122212

Date: February 18, 2008

MANASOTA

From: ITAGUAI

To: SINGAPORE

CARDIFF MARINE INC

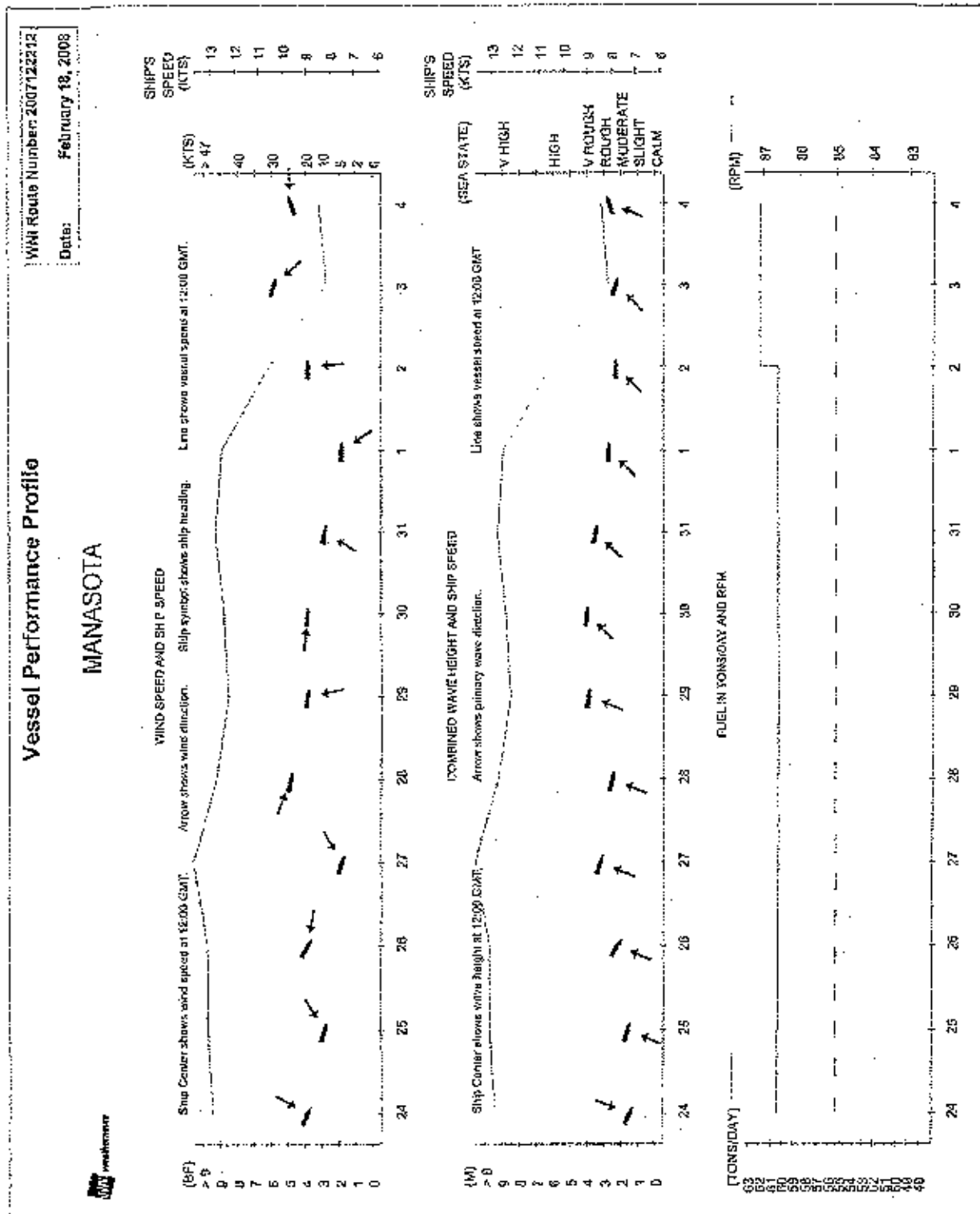
Number of Days of Wind (Beaufort Force)

	0	1	2	3	4	5	6	7	8	9	>9	Total
Head			0.25	1.50	2.75	0.75	1.00	0.25				6.50
Bow		0.25	1.75	3.75	4.50	1.25	1.50	0.25				13.25
Beam			1.50	1.00	2.25	0.25						5.00
Quarter			1.50	0.50	3.00	1.00						4.00
Follow			0.25	0.25	1.75	0.75	0.50					3.50
Total		0.25	5.25	7.00	12.25	4.00	3.00	0.50				32.25

Number of Days of Combined Wave Height (Meters)

	<1	1	2	3	4	5	6	7	8	9	>9	Total
Head		0.50	0.50	0.25								1.25
Bow	0.25	1.50	1.25									3.00
Beam	0.25	1.50	4.50	1.50	1.25							9.00
Quarter	1.50	6.00	3.25	2.25	0.75							13.75
Follow		4.00	1.25									5.25
Total	2.00	13.50	10.75	4.00	2.00							32.25

Handwritten: 10/10/10

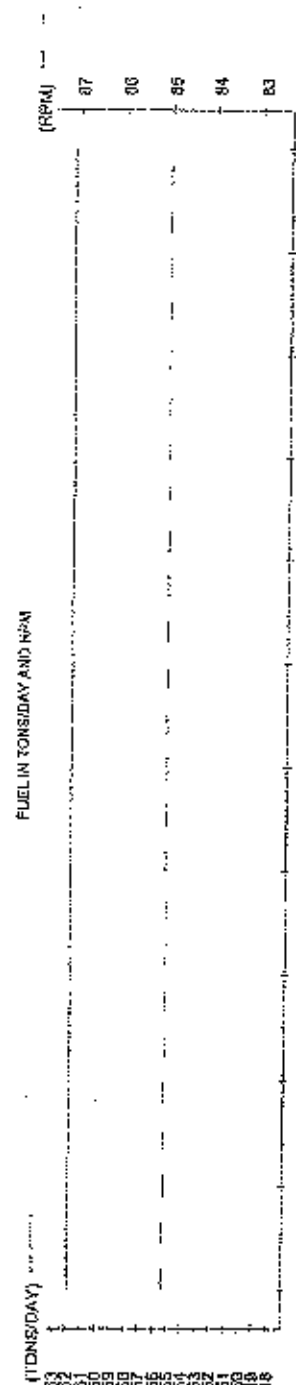
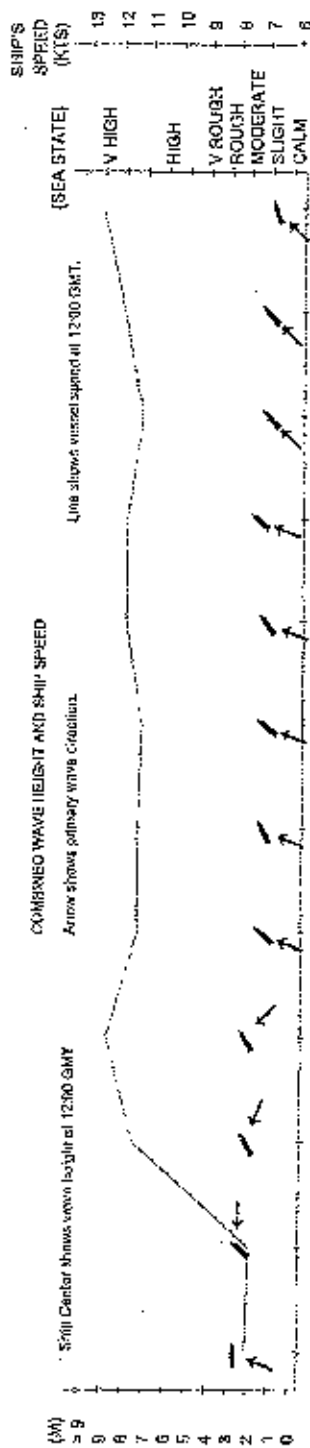
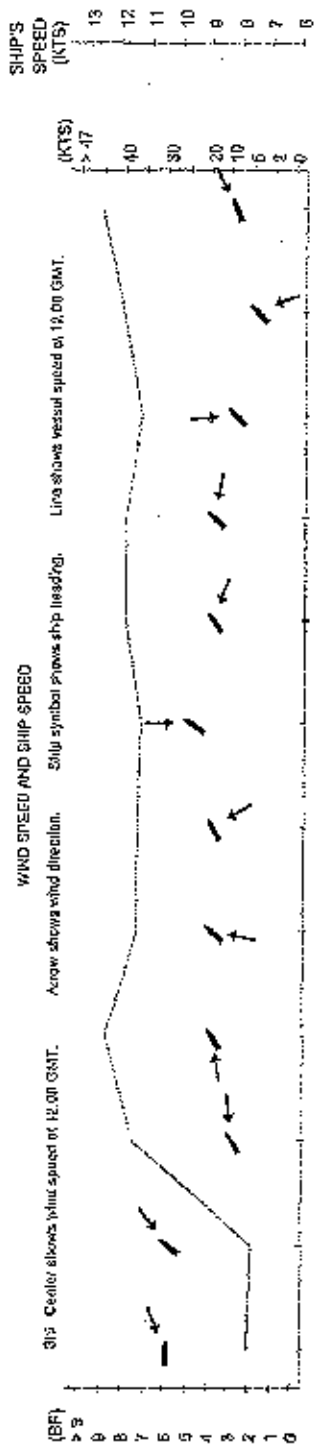


Vessel Performance Profile (Page 2)

VNI Route Number: 200712212

Date: February 18, 2008

MANASOTA

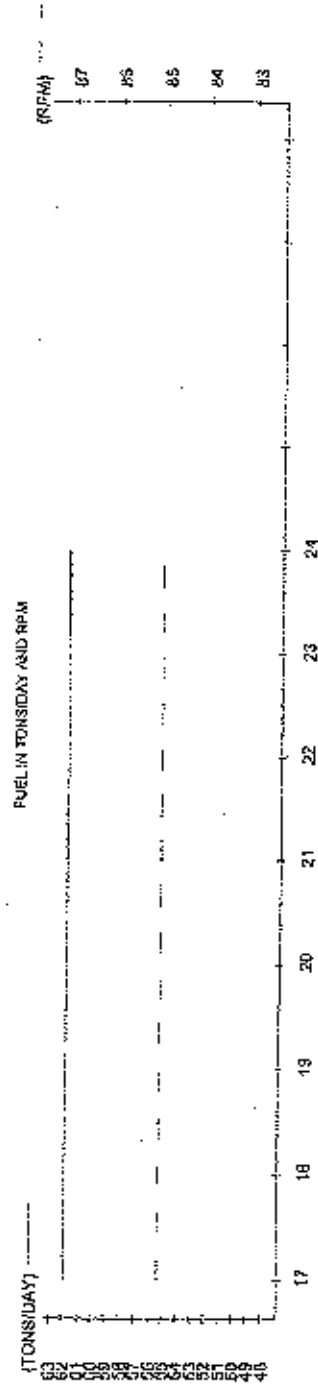
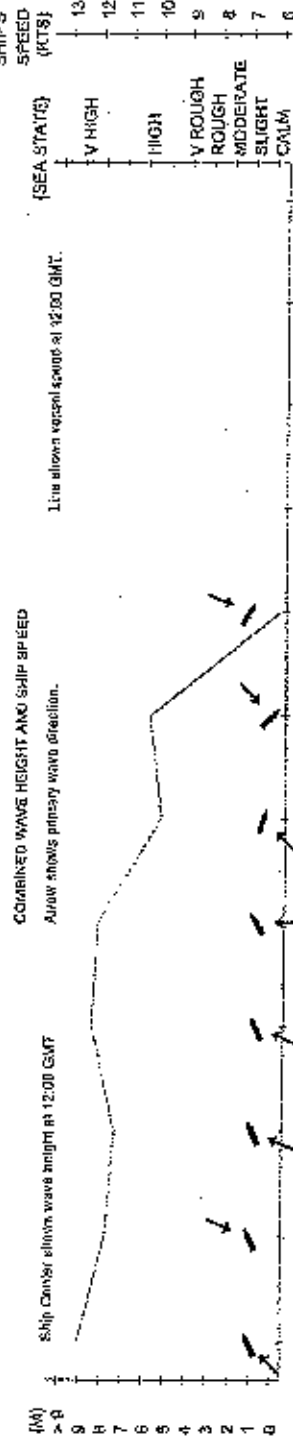
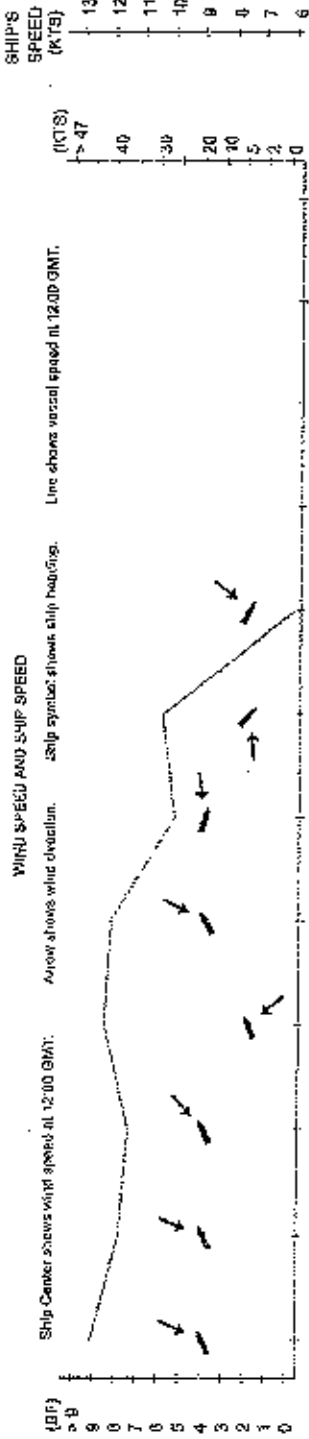


Vessel Performance Profile (Page 3)

WINI Route Number: 2007128212

Date: February 18, 2008

MANASOTA



Voyage Summary Report

WMI Route Number: 2007122212

Date: February 18, 2008

MANASOTA Operator: CARDIFF MARINE INC

Departure: SINGAPORE 1.2N 104.0E January 25, 2008 15:00 (GMT)

Arrival: BEIJUN 30.6N 122.6E February 2, 2008 03:00 (GMT)

Distance: 2160 miles Time Enroute 180.0 hours Average Speed: 12.0 knots

DATE	REPORTED NOON POSITIONS			DAILY DISTANCE (NM)	SPEED (KTS)	DIR	ANALYZED WEATHER			COMBINED WAVES			REPORTED VESSEL DATA			AVERAGE	
	LAT	LONG	GMT				SURFACE WIND SPEED (KTS)	BEAUFORT FORCE	DIR	HEIGHT (M)	RPM	F.O.	M.D.O.	F.O.	M.D.O.	(GMT)	(GMT)
1/25	1.25N	106.00E	15:00														
1/26	3.50N	105.50E	4:00	173.0	13.3	NNE	14	4	NL	1.0	05.3	2404.10	190.00		62.4	0.5	
1/27	7.60N	106.70E	4:00	312.5	13.0	SNE	18	5	NE	2.0	05.3	2421.69	190.40		62.5	0.5	
1/28	10.80N	111.50E	4:00	263.0	11.0	NNE	16	4	NE	1.5	05.2	2369.19	109.90		62.5	0.5	
1/29	16.60N	114.50E	4:00	275.9	11.5	SNE	14	4	NNE	1.3	05.2	2286.69	189.40		62.5	0.5	
1/30	17.00N	117.50E	0:00	274.6	11.4	NE	16	4	NL	1.6	05.3	2230.19	100.90		62.5	0.5	
1/31	21.50N	120.70E	4:00	276.8	11.5	NE	12	7	NE	3.0	05.2	2175.19	189.40		61.0	0.5	
2/1	25.50N	122.30E	4:00	266.7	11.1	NNE	21	6	NNE	2.0	05.2	2112.19	187.90		61.0	0.5	
2/2	30.50N	122.60E	3:00	314.8	13.7							2031.70	187.40		61.0	0.5	

WNI Route Number: 2007122212

Date: February 18, 2008

MANASOTA

From: SINGAPORE

To: BEILUN

CARDIFF MARINE INC

Number of Days of Wind (Beaufort Force)

	0	1	2	3	4	5	6	7	8	9	>9	Total
Head					3.25	1.75	0.75	0.50	0.25			5.50
Bow					1.25	0.25	0.50					2.00
Beam												
Quarter												
Follow												
Total					3.50	2.00	1.25	0.50	0.25			7.50

Number of Days of Combined Wave Height (Meters)

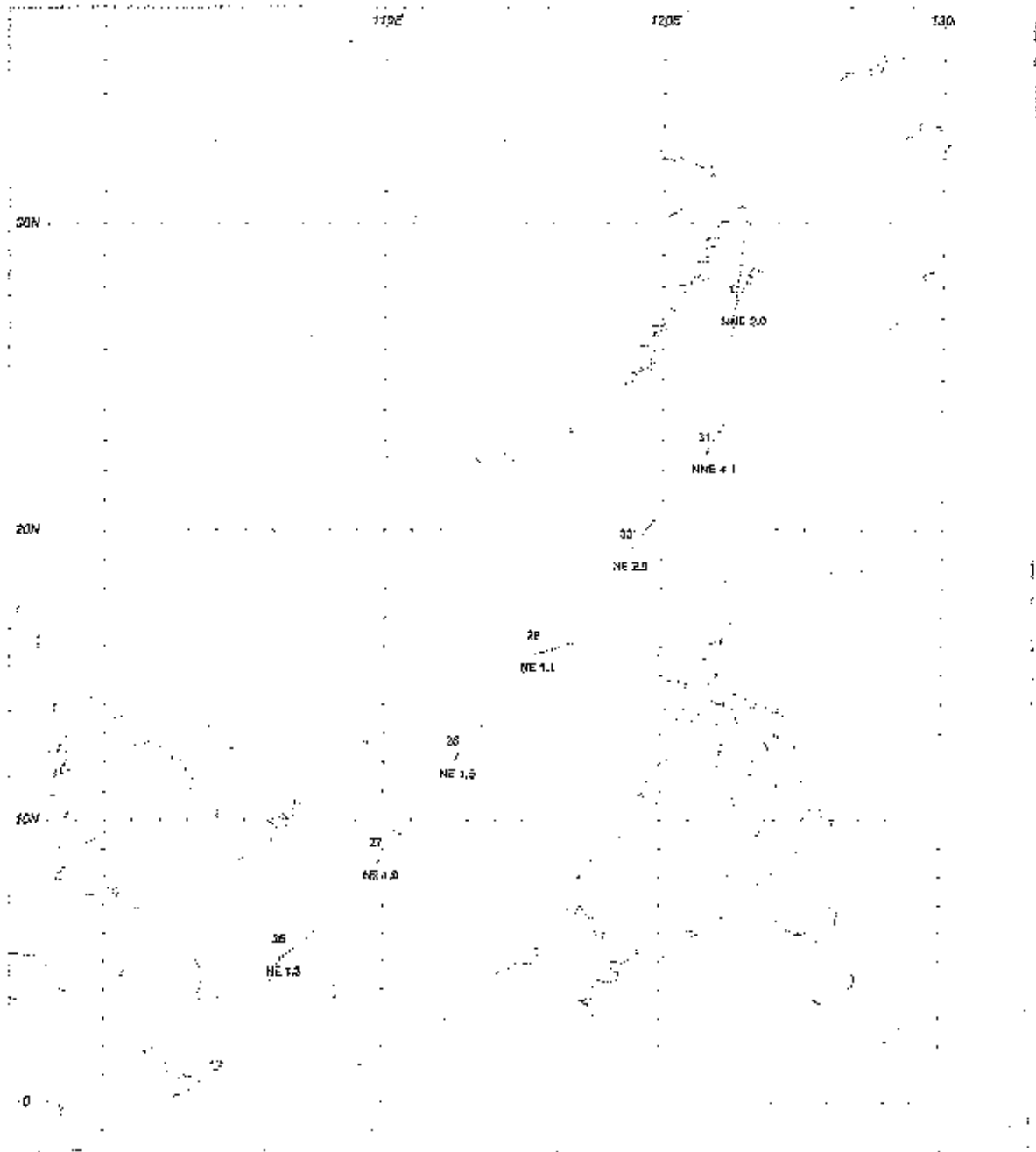
	<1	1	2	3	4	5	6	7	8	9	>9	Total
Head		3.25	2.75	0.75	0.75							7.50
Bow												
Beam												
Quarter												
Follow												
Total		3.25	2.75	0.75	0.75							7.50

MANASOTA

VNF Route Number: 2097122212

Route	Distance	Time	Speed	Departure Time	Arrival Time
Actual	2160 NM	120.0 Hours	12.0 knots	1/25/2008 16:00 (GMT)	2/2/2008 03:00 (GMT)
FROM:	1.2N	104.0E	SINGAPORE		
TO:	30.6N	122.6E	BEIJING		

LEGEND
 0 Wind from NE(345)
 East back = 0 Ns
 W 5 12 knots = 5 m/s
 5 - DAY OF THE MONTH
 W 6 - PRIMARY WAVE FROM WEST.
 5 METERS



Vessel Performance Profile (Page 4)

MANASOTA

VNI Route Number: 2007122212

Date: February 12, 2008

2007 12 22 12:00

